The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID STEBBINS,	)	
Plaintiff,	)	No. C11-1362 JCC
	)	
	)	ORDER
v.	)	
	)	
MICROSOFT, INC.,	)	
	)	
Defendant.	)	
	)	

This matter came before the Court on Defendant Microsoft Corporation's Motion to

Dismiss for Failure to State a Claim (Dkt. No. 16), Plaintiff's response (Dkt. No. 21), and

Defendant's reply (Dkt. No. 30). Plaintiff has filed a series of additional motions, all generally

based on the theory he advances in his complaint—that Microsoft has defaulted on an

obligation to him incurred as a result of an arbitration agreement. The Court has considered the

Motion and the materials submitted in support of and in opposition to the Motion. The Court

finds that Plaintiff's Complaint fails to state a claim on which relief can be granted. The Court

therefore GRANTS the Motion and directs the Clerk to enter judgment dismissing Plaintiff's

claims with prejudice.

I.   BACKGROUND AND DISCUSSION

Mr. Stebbins' complaint is a lively bit of theater evincing a mind that, if more

rigorously applied to legal study, might someday earn fees or results commensurate with his

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1   ambitions. He claims that Microsoft Corporation owes him $1.5 trillion because he modified

2   the terms of his Xbox Live contract to include an arbitration clause with a "forfeit victory

3   clause," which stipulated that if Microsoft did not respond to a request for arbitration within

4   twenty-four hours, Mr. Stebbins would "automatically win, regardless of the merits of the

5   case." Mr. Stebbins submitted two arbitration requests for amounts totaling $1.5 trillion,

6   Microsoft did not respond, and Mr. Stebbins sought to enforce the agreement and collect his

7   money. Simple enough.

8   However, confirming an arbitration award is slightly more complex than Mr. Stebbins

9   imagines. As Microsoft states, such a motion requires (1) an agreement to arbitrate, (2) an

10 arbitration, and (3) an award issued by the arbitrator. *See* 9 U.S.C. § 9 (a party may apply to

11 confirm an arbitration award only "[i]f the parties in their agreement have agreed that a

12 judgment of the court shall be entered upon the award made pursuant to the arbitration"). Mr.

13 Stebbins has not established that any of these requirements were met.

14 Primarily, Mr. Stebbins cannot demonstrate the existence of an agreement. It is true that

15 many companies have contracts with consumers that allow the company to change the terms of

16 the contract without further signed acceptance from the consumer. Before signing these

17 contracts, consumers are given the opportunity to review and reject them. But the converse is

18 not true. Generally, service and sales agreements do not allow a consumer to unilaterally alter

19 the terms of the contract without acceptance from the company. Specifically, Mr. Stebbins has

20 not shown that his Xbox live contract allowed for such an alteration. Accordingly, his claims

21 are devoid of merit.

22 Mr. Stebbins raises legitimate questions about the disparate negotiating power between

23 some companies and their customers. For that reason, the Court will not sanction him for his

24 frivolous lawsuit. But his use of this forum to raise these questions is not legitimate. His

25 complaint is wildly untethered from any valid interpretation of contract and arbitration law and

26 time spent dealing with Mr. Stebbins' filings prevents the Court from addressing the genuine,

27 vexing problems that people trust the Court to resolve quickly and fairly. For that reason, the

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1   Court will sanction him next time he files a similarly frivolous complaint.

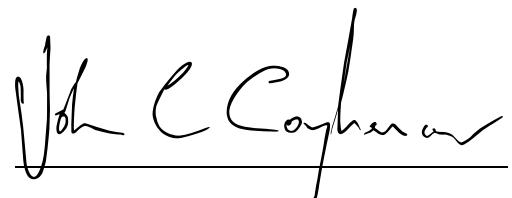2   **II.   CONCLUSION**

3   For the foregoing reasons, Defendant's motion to dismiss is GRANTED. (Dkt. No. 16.)

4   This case is DISMISSED with prejudice, and the Clerk is directed to CLOSE the case.

5   Plaintiff's outstanding motions are DENIED as frivolous. (Dkt. Nos. 18, 19, 22, 24.)

6   DATED this 13th day of January 2012.

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12   John C. Coughenour
                                        UNITED STATES DISTRICT JUDGE
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